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c 139 Energy Act

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CHAPTER 139

Energy Act

1. In this Act,

Interpre-
tation

- (a) "appliance" means a device that uses a hydrocarbon and includes all valves, fittings, controls and components attached or to be attached thereto;
- (b) "contractor" means a person who carries on the business of, or a person whose business includes, installing, removing, repairing, altering or servicing appliances, and includes a person who agrees by himself or through another to install, remove, repair, alter or service appliances sold or leased by him;
- (c) "Deputy Minister" means the Deputy Minister of Consumer and Commercial Relations;
- (d) "distributor" means a person who supplies a hydrocarbon to an end user, and "distribute" and "distribution" have corresponding meanings;
- (e) "handling" means the transmission, transportation or distribution of a hydrocarbon, or the storage of a hydrocarbon in a container, and "handle" and "handler" have corresponding meanings;
- (f) "hydrocarbon" means a chemical compound of hydrogen and carbon used as a fuel, either liquid or gaseous;
- (g) "inspector" means an inspector appointed for the purposes of this Act and the regulations, and includes the Director;
- (h) "install" includes placing an appliance in position for temporary use, venting an appliance and connecting piping to an appliance;
- (i) "Minister" means the Minister of Consumer and Commercial Relations;

- (j) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (k) "pipeline" means a pipe that is used for the transmission or distribution of a hydrocarbon and includes fittings, valves, controls, compressor stations, pressure regulating stations and meter stations, but does not include the pipe, fittings, valves or controls of the end user;
- (l) "regulations" means the regulations made under this Act;
- (m) "transmitter" means a person who supplies a hydrocarbon by pipeline to a distributor and "transmit", "transmission" and "transmission line" have corresponding meanings;
- (n) "transporter" means a person who supplies a hydrocarbon other than by pipeline to a distributor or an end user and "transport" and "transportation" have corresponding meanings;
- (o) "work" used as a noun, means the facilities used in the handling of a hydrocarbon. 1971, c. 44, s. 1; 1972, c. 1, s. 40.

Adminis-
tration
of Act

2. The Minister is responsible for the administration of this Act. 1971, c. 44, s. 2.

Appointment
of inspectors
and Director

3.—(1) The Deputy Minister may appoint such inspectors as are necessary for the purposes of this Act and the regulations and may designate one of such inspectors as the Director.

Powers and
duties of
inspectors
and Director

(2) The inspectors and the Director may exercise the powers and shall perform the duties assigned to them by or under this or any other Act and the Director is the chief administrator of this Act and has general supervision and direction of the inspectors.

Certificate
of appoint-
ment and
identification

(3) The Deputy Minister shall issue to every inspector a certificate of his appointment and identification.

Production
of certificate

(4) Every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment and identification upon request. 1971, c. 44, s. 3.

Powers of
inspectors

4.—(1) An inspector may for the purpose of carrying out his duties under this Act and the regulations,

- (a) subject to subsection (2), enter in or upon any premises at any time without a warrant;
- (b) take up or use at any time any work or appliance or part thereof;
- (c) require the production of any drawing or specification of a work or appliance, or any part thereof, or any licence, record or report and may inspect, and make copies of, the same and may require information from any person concerning any matter related to a work or appliance or part thereof or the handling or use thereof;
- (d) be accompanied by any person at the request of the inspector who has special or expert knowledge of any matter in relation to a work or appliance or a part thereof or the handling or use thereof;
- (e) alone, or in conjunction with such other persons possessing special or expert knowledge, make such examinations, tests or inquiries as may be necessary to ascertain whether this Act and the regulations are being complied with and for such purpose take or remove any material or substance subject to the handler or user being notified thereof.

(2) An inspector shall not enter any room or place actually being used as a dwelling where the occupier refuses entry except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*. 1971, c. 44, s. 4, *revised*. Warrant
R.S.O. 1980,
c. 400

5.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act and the regulations. Obstruction
of inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination or inquiry by an inspector in the exercise of his powers and duties under this Act and the regulations. Assistance
of inspector

(3) No person shall neglect or refuse to produce a licence, certificate, drawing, specification, record or report as required by an inspector under clause 4 (1) (c). Refusal
to produce

(4) No person shall furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act and the regulations. 1971, c. 44, s. 5. False
information

**Information
confidential**

6.—(1) An inspector shall not publish, disclose or communicate to any person any information, record, report or statement acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations except for the purposes of carrying out his duties under this Act and the regulations.

**Compel-
lability in
civil suit**

(2) An inspector is not a compellable witness in a civil suit or proceeding respecting any information, record, report, statement or test acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations.

Exception

(3) The Director may disclose or publish information, material, statements or result of a test acquired, furnished, obtained or made under the powers conferred under this Act and the regulations. 1971, c. 44, s. 6.

**Liability
of inspector**

7.—(1) No action, or other proceeding for damages lies or shall be instituted against an inspector for an act or omission by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

**Liability
of Crown
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(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an inspector to which it would otherwise be subject and the Crown is liable under that Act for any such tort in like manner as if subsection (1) had not been enacted. 1971, c. 44, s. 7.

**Directions
by inspector
where non-
compliance**

8.—(1) Where an inspector finds that any provision of this Act or the regulations is being contravened, he may give to the person whom he believes to be the contravener, his supervisor or foreman or any of them an order in writing directing compliance with such provision and may require the order to be carried out forthwith or within such time as he specifies.

Idem

(2) Where an inspector gives an order under this section, the order shall contain sufficient information to specify the nature of the contravention.

**Affixing
tags**

(3) Where an inspector gives an order under this section and he considers that the contravention of this Act or the regulations may be a hazard to persons or property, he,

(a) shall order that the appliance or work shall not be used until the order is complied with;

(b) shall affix a tag in the prescribed form to the appliance or work and, subject to subsection (4), no person except an inspector shall remove the tag; and

(c) shall notify in writing the owner or person in charge of the appliance or work and the handler of the affixing of the tag.

(4) Where a tag has been affixed to the appliance or work, ^{Removal of tags} the tag shall not be removed except by a gas fitter, propane fitter or oil-burner mechanic certified under this Act and the regulations who has made the appliance or work conform to or comply with this Act and the regulations.

(5) When the tag is removed by a gas fitter, propane ^{Idem} fitter or oil-burner mechanic under subsection (4), the fitter or mechanic shall endorse his certificate number, name and address upon the tag and send it by prepaid registered mail or deliver it to the inspector who affixed the tag.

(6) No person shall remove a hydrocarbon from or ^{Use of tagged appliance} knowingly supply a hydrocarbon to an appliance or work to which a tag is attached, except a gas fitter, propane fitter or oil-burner mechanic certified under this Act and the regulations for the purpose of making the appliance or work conform to or comply with this Act and the regulations.

(7) No person shall use an appliance or work to which a ^{Idem} tag is attached.

(8) Any person who considers himself aggrieved by a decision ^{Appeal from inspector} or order of an inspector made under this section may appeal to the Director who shall hear and dispose of the appeal as promptly as is practicable but the bringing of such appeal does not affect the operation of the decision or order appealed from pending disposition of the appeal.

(9) An appeal to the Director may be made in writing or ^{Oral or written} orally or by telephone but the Director may require the grounds for appeal to be specified in writing before the appeal is heard.

(10) On an appeal under this section, the Director may ^{Powers of Director} substitute his findings or opinion for those of the inspector who made the decision or order appealed from and may rescind or affirm the decision or order or make a new decision or order in substitution therefor and the decision or order of the Director shall stand in place of and have the like effect under this Act as the decision or order of the inspector. 1971, c. 44, s. 8.

Dangerous accidents

9. Subject to the regulations, where it appears that carbon monoxide poisoning, asphyxiation, explosion or fire has occurred because of the use or handling of a hydrocarbon,

- (a) the handler shall forthwith notify an inspector of the occurrence by telephone, telegraph or other direct means; and
- (b) no person shall, except in the interests of public safety, saving life, relieving human suffering, continuity of service or preservation of property, interfere with or disturb any wreckage, article or thing at the scene of and connected with the occurrence, but in no case shall the wreckage, article or thing be carried away or destroyed by any person unless permission so to do is given by an inspector. 1971, c. 44, s. 9.

Sale of appliance where approval required

10. Where the regulations require the approval of an appliance or any equipment or other thing employed or to be employed in the handling or use of a hydrocarbon, no person shall offer for sale, sell, lease, rent, buy or install the appliance or equipment or other thing unless it is approved. 1971, c. 44, s. 10.

Installation, etc., of appliance

11. No person shall install, alter, repair, service or remove any appliance or any equipment or other thing employed or to be employed in the handling or use of a hydrocarbon except in accordance with the regulations. 1971, c. 44, s. 11.

Handler's licence

12. No person shall handle a hydrocarbon unless he is the holder of a licence for that purpose. 1971, c. 44, s. 12.

Registration of contractors

13. No person shall be a contractor unless he is registered for the purpose. 1971, c. 44, s. 13.

Installer's certificate

14.—(1) Subject to the regulations, no person shall install, alter, purge, activate, repair, service or remove any appliance or any equipment or other thing employed or to be employed in the handling or use of a hydrocarbon unless he is the holder of a certificate for the purpose.

Exception

(2) Subsection (1) does not apply where the installing, altering, purging, activation, repair, service or removal is done by a person in the presence of a holder of the certificate referred to in subsection (1). 1971, c. 44, s. 14.

Notice of initial activation of appliance

15.—(1) No person shall initially activate an appliance that is to be supplied with a hydrocarbon by pipeline without first giving notice in writing to the distributor of the address

of the premises at which the installation was made or is to be made and the type of appliance supplied or to be supplied.

(2) Where premises are connected to a supply of hydrocarbon by pipeline for the first time, no person shall initially activate an appliance in the premises that is connected to the pipeline until the distributor of the hydrocarbon has examined the installation of the appliance and has accepted the installation and use as being in compliance with this Act and the regulations. 1971, c. 44, s. 15.

Examination
before
initial
activation
of appliance

16. A distributor shall have access, at all reasonable times and upon reasonable notice, to all parts of every premises to which he supplies a hydrocarbon by pipeline for the purpose of,

Access by
distributor

(a) examining any appliance in or on the premises and disconnecting the appliance if it, its installation or its use does not conform with this Act or the regulations; and

(b) placing, protecting, setting, shutting off, removing, repairing or altering any meter or regulator owned by the distributor in or on the premises. 1971, c. 44, s. 16.

17.—(1) No person shall activate a pipeline until it has been examined and accepted as being in accordance with the regulations.

Initial
activation
of pipeline

(2) The examination and acceptance required by subsection (1) shall be made by a person who holds a certificate as a pipeline inspector issued under the regulations. 1971, c. 44, s. 17.

Idem

18.—(1) No person shall dig, bore, trench, grade, excavate or break ground with mechanical equipment or explosives without first ascertaining the location of any pipeline that may be interfered with.

Duty to
inquire
before
excavation

(2) Where the owner of a pipeline is requested by any person about to dig, bore, trench, grade, excavate or break ground with mechanical equipment or explosives to give the location of a pipeline for the purpose of subsection (1), he shall within a reasonable time of the receipt of the request and having regard to all the circumstances of the case, furnish reasonable information as to the location of the pipeline. 1971, c. 44, s. 18.

Duty to
provide
information

19. No person shall interfere with or damage any pipeline without authority to do so. 1971, c. 44, s. 19.

Interference
with pipeline

Duty of
employer
to obtain
compliance

20.—(1) Every person who installs, removes, repairs, alters or services appliances or works shall instruct his employees to comply with this Act and the regulations.

Idem

(2) Every person who installs, removes, repairs, alters or services appliances or works shall take every precaution reasonable in the circumstances to ensure that his employees comply with this Act and the regulations. 1971, c. 44, s. 20.

Order for
priority
of use

21.—(1) Notwithstanding anything in this or any other Act, or in any contract for the supply of natural gas made between a distributor and a consumer, where the supply of natural gas to a distributor is interrupted or curtailed, the Minister may order a distributor to halt or reduce the supply of natural gas to a consumer or a class or classes of consumers if he considers it advisable in the circumstances.

Compliance

(2) Every person to whom such an order is directed shall comply therewith in accordance with its terms. 1971, c. 44, s. 21.

Issuance
of licences,
certificates
and registra-
tion

22.—(1) A licence, certificate or registration shall be issued or made by the Director and is subject to such terms and conditions as are therein contained or as prescribed by the regulations.

Refusal,
suspension
or revocation

(2) The Director may refuse to grant or renew or may suspend or revoke a licence, certificate or registration where,

- (a) the applicant or holder has contravened a provision of this Act or the regulations; or
- (b) there are reasonable grounds for believing that the applicant or holder is without capacity or not competent or lacks reasonable skill. 1971, c. 44, s. 22.

Notice of
proposed
refusal or
revocation

23.—(1) Where the Director proposes to refuse to grant or to refuse to renew or to suspend or revoke a licence, certificate or registration he shall serve notice of his proposal, together with written reasons therefor, on the applicant or holder of the licence, certificate or registration.

Idem

(2) A notice under subsection (1) shall inform the applicant or holder of the licence, certificate or registration that he is entitled to a hearing by a judge of the county or district court for the county or district in which he resides if he applies to a judge thereof within fifteen days after the notice under subsection (1) is served on him and he may so apply for such a hearing.

(3) Where an applicant or holder of a licence, certificate or registration does not apply to a judge for a hearing in accordance with subsection (2), the Director may refuse to grant a licence, certificate or registration, or carry out the proposal stated in his notice under subsection (1). Powers of Director where no hearing

(4) Where an applicant or holder of a licence, certificate or registration applies to a judge for a hearing in accordance with subsection (2), the judge shall in writing appoint a time and place for and hold the hearing. Appointment for hearing

(5) Upon the application of the Director at the hearing, the judge may by order require the Director to grant the licence, certificate or registration, or permit him to carry out his proposal, or direct that such action as the judge considers proper be taken by the Director in accordance with this Act and the regulations and for such purposes the judge may substitute his opinion for that of the Director. Powers of judge where hearing

(6) The Director may serve notice under subsection (1) personally or by registered mail addressed to the applicant or the holder of the licence, certificate or registration at his address last known to the Director and where notice is served by registered mail the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. Service of notice

(7) A judge to whom application is made by an applicant or the holder of a licence, certificate or registration for a hearing under this section, may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant or the holder of a licence, certificate or registration pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as he considers proper consequent upon the extension. Extension of time for application

(8) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, certificate or registration a holder of a licence, certificate or registration has applied for renewal of his licence, certificate or registration and paid the prescribed fee, his licence, certificate or registration shall be deemed to continue, Continuation pending renewal

(a) until the renewal is granted ; or

- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision. 1971, c. 44, s. 23.

Parties

24.—(1) The Director, the applicant, the holder of the licence, certificate or registration who has applied for the hearing and such other persons as are specified by the judge are parties to the proceedings before a judge under section 23.

Opportunity to achieve compliance

(2) Notice of a hearing under section 23 shall afford to the holder of a licence, certificate or registration a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence, certificate or registration.

Examination of documentary evidence

(3) An applicant or holder of a licence, certificate or registration who is a party to proceedings under section 23 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording evidence

(4) The oral evidence taken before a judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(5) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 44, s. 24.

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c. 484

Appeal to Divisional Court

25.—(1) Any party to proceedings before a judge under section 23 may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Record to be filed

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Divisional Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard

(3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of court on appeal

(4) The Divisional Court may, on the appeal, affirm the decision of the judge appealed from or may rescind it and

make such new decision as the court considers proper under this Act and the regulations and may order the Director to do any act or thing he is authorized to do under this Act and as the court considers proper and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 44, s. 25.

26. Notwithstanding section 21, the Director by notice to the holder of a licence, certificate or registration and without a hearing, may provisionally refuse to renew or suspend the holder's licence, certificate or registration where in the Director's opinion it is necessary to do so for the immediate protection of any person or the public and the Director so states in such notice giving his reasons therefor, and thereafter section 23 applies as if the notice given under this section were a notice of a proposal to revoke the licence, certificate or registration under section 22. 1971, c. 44, s. 26.

Interim
suspension
pending
final
decision

27. Every person who,

Offences

- (a) contravenes or fails to comply with any provision of this Act or the regulations;
- (b) knowingly makes a false statement in any document required by the regulations;
- (c) contravenes or fails to comply with a term or condition of a licence, certificate or registration;
- (d) contravenes or fails to comply with an order of an inspector given under section 8; or
- (e) contravenes or fails to comply with an order of the Minister made under section 21,

is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both. 1971, c. 44, s. 27.

28.—(1) The Lieutenant Governor in Council may make regulations for the handling and use of hydrocarbons and, in particular and without limiting the generality of the foregoing, may make regulations,

Regulations

- (a) regulating the installation, filling, testing, maintenance, repair, removal, replacement, inspection and use of appliances or works and the handling and use of hydrocarbons;

- (b) requiring and providing for the approval of design and construction standards for appliances and works;
- (c) designating organizations to test appliances to the standards approved under the regulations and providing for the placing of the label of such organization on the appliances and works that conform to the standards;
- (d) prohibiting the sale, purchase, renting and use of an appliance that does not bear the label of a testing organization or of the Ministry;
- (e) requiring the reporting of accidents;
- (f) requiring safety procedures to be filed by distributors and for the approval thereof by the Director and compliance therewith by distributors;
- (g) requiring owners of pipelines to develop procedures for locating pipelines and providing for the approval of such procedures by the Director;
- (h) providing for the registration of contractors and providing for the expiry and renewal of registration;
- (i) providing for the issue, expiry and renewal of licences, certificates or labels and prescribing terms and conditions upon which licences, certificates or labels may be issued or renewed;
- (j) prescribing the fees to be paid for the inspection of pipelines or appliances and prescribing by whom the fees shall be paid;
- (k) prescribing the fee payable for any application, examination, certificate, licence, label, registration, or renewal thereof;
- (l) prescribing forms and tags, and providing for their use;
- (m) providing for and requiring the keeping of records and plans and the making of affidavits, returns, statements or reports on the handling or use of a hydrocarbon;
- (n) exempting any person or any class of persons, and any appliance or work or any class of them from compliance with this Act and the regulations or of any of the provisions thereof;

(o) for any matter provided in this Act to be done by regulation.

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code and may require compliance with any code that is so adopted. ^{Adoption of codes by reference}

(3) A regulation may be general or particular in its application. 1971, c. 44, s. 28. ^{Limited application of regulations}

29. This Act and the regulations prevail over any municipal by-law. 1971, c. 44, s. 29. ^{Municipal by-laws}

